



STATE OF MONTANA REQUEST FOR PROPOSAL (RFP)

RFP Number:
#HWY-311520-SH

RFP Title:
TRAFFIC SAFETY RESOURCE PROSECUTOR

RFP Response Due Date and Time:
FEBRUARY 9, 2015
3:00 p.m., Mountain Time

Number of Pages:
41

Issue Date:
JANUARY 6, 2015

ISSUING AGENCY INFORMATION

Procurement Officer:
SCOTT HICKS

**Purchasing Services Section
Administration Division
Department of Transportation
Phone: (406) 444-6033
Fax: (406) 444-5411
TTY Users, Dial 711**

Website: <http://vendor.mt.gov/>

INSTRUCTIONS TO OFFERORS

Return Sealed Proposal to:

PHYSICAL ADDRESS:

Purchasing Services Section
Administration Division
Department of Transportation
2701 Prospect Avenue
Helena, MT 59602

MAILING ADDRESS:

Purchasing Services Section
Administration Division
Department of
Transportation
P.O. Box 201001
Helena, MT 59620-1001

**Mark Face of Envelope/Package
with:**

RFP Number:
#HWY-311520-SH
RFP Response Due Date:
February 9, 2015

Special Instructions:

OFFERORS MUST COMPLETE THE FOLLOWING

Offeror Name/Address:

(Name/Title)

(Signature)

Print name and title and sign in ink. By submitting a response to this RFP, offeror acknowledges it understands and will comply with the RFP specifications and requirements.

Type of Entity (e.g., corporation, LLC, etc.)

Offeror Phone Number:

Offeror E-mail Address:

Offeror FAX Number:

OFFERORS MUST RETURN THIS COVER SHEET WITH RFP RESPONSE

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INSTRUCTIONS TO OFFERORS

It is the responsibility of each offeror to:

Follow the format required in the RFP when preparing your response. Provide responses in a clear and concise manner.

Provide complete answers/descriptions. Read and answer **all** questions and requirements. Proposals are evaluated based **solely** on the information and materials provided in your written response.

Use any forms provided, e.g., cover page, budget form, certification forms, etc.

Submit your response on time. Note all the dates and times listed in the Schedule of Events and within the document. Late proposals are **never** accepted.

The following items MUST be included in the response.
Failure to include ANY of these items may result in a nonresponsive determination.

- ☒ **Signed Cover Sheet**
- ☒ **Signed Addenda (if appropriate) in accordance with Section 1.4.3**
- ☒ **Correctly executed State of Montana "Affidavit for Trade Secret Confidentiality" form, if claiming information to be confidential or proprietary in accordance with Section 2.3.1.**
- ☒ **In addition to a detailed response to all requirements within Sections 3, 4, and 5, offeror must acknowledge that it has read, understands, and will comply with each section/subsection listed below by initialing the line to the left of each. If offeror cannot meet a particular requirement, provide a detailed explanation next to that requirement.**

_____	Section 1, Introduction and Instructions
_____	Section 2, RFP Standard Information
_____	Section 3.1, Background
_____	Section 3.2, Purpose
_____	Section 3.3, Scope of Work
_____	Section 3.4, Deliverables and Milestones
_____	Section 4.1, State's Right to Investigate and Reject
_____	Section 5.1, Budget Limitations and Other Requirements
_____	Section 5.2, Basis of Evaluation
_____	Section 5.4, Cost Revisions
_____	Section 6, Evaluation Process
_____	Appendix A, Standard Terms and Conditions
_____	Appendix B, Contract
_____	Appendix C, Client Reference Form
_____	Appendix D, Budget Worksheet

SCHEDULE OF EVENTS

EVENT

DATE

RFP Issue Date.....	January 6, 2015
Deadline for Receipt of Written Questions	January 16, 2015
Deadline for Posting Written Responses to the State's Website ...	January 23, 2015
RFP Response Due Date	February 9, 2015
Intended Date for Contract	April 1, 2015*

*The dates above identified by an asterisk are included for planning purposes. These dates are subject to change.

SECTION 1: INTRODUCTION AND INSTRUCTIONS

1.1 INTRODUCTION

The STATE OF MONTANA, Department of Transportation ("State") is seeking a Contractor to serve as the State of Montana Traffic Safety Resource Prosecutor (TSRP). The TSRP will provide resources, technical assistance and a network of contacts for prosecutors, law enforcement and judges to promote the value of and consistency in the enforcement, prosecution and conviction of impaired drivers. The goal is to reduce fatalities and injuries on Montana roads. A more complete description of the services to be provided is found in Section 3.

1.2 CONTRACT PERIOD

The contract period is approximately 18 months, beginning upon contract execution, and ending September 30, 2016, inclusive. The parties may mutually agree to a renewal of this contract in 1-year intervals, or any interval that is advantageous to the State. This contract, including any renewals, may not exceed a total of 7 years, at the State's option.

1.3 SINGLE POINT OF CONTACT

From the date this Request for Proposal (RFP) is issued until an offeror is selected and announced by the procurement officer, **offerors shall not communicate with any state staff regarding this procurement, except at the direction of Scott Hicks**, the procurement officer in charge of the solicitation. Any unauthorized contact may disqualify the offeror from further consideration. Contact information for the single point of contact is:

Procurement Officer: Scott Hicks
Telephone Number: (406) 444-6033
Fax Number: (406) 444-5411
E-mail Address: shicks@mt.gov

1.4 REQUIRED REVIEW

1.4.1 Review RFP. Offerors shall carefully review the entire RFP. Offerors shall promptly notify the procurement officer identified above via e-mail or in writing of any ambiguity, inconsistency, unduly restrictive specifications, or error that they discover. In this notice, the offeror shall include any terms or requirements within the RFP that preclude the offeror from responding or add unnecessary cost. Offerors shall provide an explanation with suggested modifications. The notice must be received by the deadline for receipt of inquiries set forth in Section 1.4.2. The State will determine any changes to the RFP.

1.4.2 Form of Questions. Offerors having questions or requiring clarification or interpretation of any section within this RFP must address these issues via e-mail or in writing to the procurement officer listed above on or before **January 16, 2015**. Offerors are to submit questions using the Vendor RFP Question and Answer Form available on the OneStop Vendor Information website at: <http://svc.mt.gov/gsd/OneStop/GSDDocuments.aspx> or by calling (406) 444-6033. Clear reference to the section, page, and item in question must be included in the form. Questions received after the deadline may not be considered.

1.4.3 State's Response. The State will provide a written response by **January 23, 2015** to all questions received by **January 16, 2015**. The State's response will be by written addendum and will be posted on the State's website with the RFP at <http://svc.mt.gov/gsd/OneStop/SolicitationDefault.aspx> by the close of business on the date listed. Any other form of interpretation, correction, or change to this RFP will not be binding upon the State. **Offerors shall sign and return with their RFP response an Acknowledgment of Addendum for any addendum issued.**

1.5 GENERAL REQUIREMENTS

1.5.1 Acceptance of Standard Terms and Conditions/Contract. *By submitting a response to this RFP, offeror accepts the standard terms and conditions and contract set out in Appendices A and B, respectively.* Much of the language included in the standard terms and conditions and contract reflects the requirements of Montana law.

Offerors requesting additions or exceptions to the standard terms and conditions, or to the contract terms, shall submit them to the procurement officer listed above by the date specified in Section 1.4.2. A request must be accompanied by an explanation why the exception is being sought and what specific effect it will have on the offeror's ability to respond to the RFP or perform the contract. The State reserves the right to address nonmaterial requests for exceptions to the standard terms and conditions and contract language with the highest scoring offeror during contract negotiation.

The State shall identify any revisions to the standard terms and conditions and contract language in a written addendum issued for this RFP. The addendum will apply to all offerors submitting a response to this RFP. The State will determine any changes to the standard terms and conditions and/or contract.

1.5.2 Resulting Contract. This RFP and any addenda, the offeror's RFP response, including any amendments, a best and final offer (if any), and any clarification question responses shall be incorporated by reference in any resulting contract.

1.5.3 Mandatory Requirements. To be eligible for consideration, an offeror **must** meet all mandatory requirements as listed in Sections 4.2.2. The State will determine whether an offeror's proposal complies with the requirements. Proposals that fail to meet any mandatory requirements listed in this RFP will be deemed nonresponsive.

1.5.4 Understanding of Specifications and Requirements. By submitting a response to this RFP, offeror acknowledges it understands and shall comply with the RFP specifications and requirements.

1.5.5 Offeror's Signature. Offeror's proposal must be signed in ink by an individual authorized to legally bind the offeror. The offeror's signature guarantees that the offer has been established without collusion. Offeror shall provide proof of authority of the person signing the RFP upon State's request.

1.5.6 Offer in Effect for 120 Calendar Days. Offeror agrees that it may not modify, withdraw, or cancel its proposal for a 120-day period following the RFP due date or receipt of best and final offer, if required.

1.6 SUBMITTING A PROPOSAL

1.6.1 Organization of Proposal. Offerors must organize their proposal into sections that follow the format of this RFP. Proposals should be bound, and must include tabbed dividers separating each section. Proposal pages must be consecutively numbered.

All subsections not listed in the "Instructions to Offerors" on page 3 require a response. Restate the section/subsection number and the text immediately prior to your written response.

Unless specifically requested in the RFP, an offeror making the statement "Refer to our literature..." or "Please see www.....com" may be deemed nonresponsive or receive point deductions. If making reference to materials located in another section of the proposal, specific page numbers and sections must be noted. **The Evaluator/Evaluation Committee is not required to search through the proposal or literature to find a response.**

1.6.2 Failure to Comply with Instructions. Offerors failing to comply with these instructions may be subject to point deductions. Further, the State may deem a proposal nonresponsive or disqualify it from further consideration if it does not follow the response format, is difficult to read or understand, or is missing requested information.

1.6.3 Multiple Proposals. Offerors may, at their option, submit multiple proposals. Each proposal shall be evaluated separately.

1.6.4 Copies Required and Deadline for Receipt of Proposals. Offerors must submit **one original proposal and 6 copies** to the Purchasing Services Section. The State reserves the right to request an electronic copy of the RFP response. In addition, offerors must submit **two** electronic copies on compact disc (CD) or universal serial bus (USB) flash drive in Microsoft Word or portable document format (PDF). If any confidential materials are included in accordance with the requirements of Section 2.3.2, they must be submitted on a separate CD or USB flash drive.

EACH PROPOSAL MUST BE SEALED AND LABELED ON THE OUTSIDE OF THE PACKAGE clearly indicating it is in response to RFP #HWY-311520-SH. ***Proposals must be received in the Administration Division, Purchasing Services Section prior to 3:00 p.m., Mountain Time, February 9, 2015. Offeror is solely responsible for assuring delivery to the reception desk by the designated time.***

1.6.6 Late Proposals. ***Regardless of cause, the State shall not accept late proposals. Such proposals will automatically be disqualified from consideration.*** Offeror may request the State return the proposal at offeror's expense or the State will dispose of the proposal if requested by the offeror. (See Administrative Rules of Montana (ARM) 2.5.509.)

1.7 COSTS/OWNERSHIP OF MATERIALS

1.7.1 State Not Responsible for Preparation Costs. Offeror is solely responsible for all costs it incurs prior to contract execution.

1.7.2 Ownership of Timely Submitted Materials. The State shall own all materials submitted in response to this RFP.

SECTION 2: RFP STANDARD INFORMATION

2.1 AUTHORITY

The RFP is issued under 18-4-304, Montana Code Annotated (MCA) and ARM 2.5.602. The RFP process is a procurement option allowing the award to be based on stated evaluation criteria. The RFP states the relative importance of all evaluation criteria. The State shall use only the evaluation criteria outlined in this RFP.

2.2 OFFEROR COMPETITION

The State encourages free and open competition to obtain quality, cost-effective services and supplies. The State designs specifications, proposal requests, and conditions to accomplish this objective.

2.3 RECEIPT OF PROPOSALS AND PUBLIC INSPECTION

2.3.1 Public Information. Subject to exceptions provided by Montana law, all information received in response to this RFP, including copyrighted material, is public information. Proposals will be made available for public viewing and copying shortly after the proposal due date and time. The exceptions to this requirement are: (1) bona fide trade secrets meeting the requirements of the Uniform Trade Secrets Act, Title 30, chapter 14, part 4, MCA, that have been properly marked, separated, and documented; (2) matters involving individual safety as determined by the State; and (3) other constitutional protections. See 18-4-304, MCA. The State provides a copier for interested parties' use at \$0.10 per page. The interested party is responsible for the cost of copies and to provide personnel to do the copying.

2.3.2 Procurement Officer Review of Proposals. Upon opening the proposals in response to this RFP, the procurement officer will review the proposals for information that meets the exceptions in Section 2.3.1, providing the following conditions have been met:

- Confidential information (including any provided in electronic media) is clearly marked and separated from the rest of the proposal.
- The proposal does not contain confidential material in the cost or price section.
- An affidavit from the offeror's legal counsel attesting to and explaining the validity of the trade secret claim as set out in Title 30, chapter 14, part 4, MCA, is attached to each proposal containing trade secrets. Counsel must use the State of Montana "Affidavit for Trade Secret Confidentiality" form in requesting the trade secret claim. This affidavit form is available on the OneStop Vendor Information website at: <http://svc.mt.gov/gsd/OneStop/GSDDocuments.aspx> or by calling (406) 444-6033.

Information separated out under this process will be available for review only by the procurement officer, the evaluator/evaluation committee members, and limited other designees. Offerors shall pay all of its legal costs and related fees and expenses associated with defending a claim for confidentiality should another party submit a "right to know" (open records) request.

2.4 CLASSIFICATION AND EVALUATION OF PROPOSALS

2.4.1 Initial Classification of Proposals as Responsive or Nonresponsive. The State shall initially classify all proposals as either "responsive" or "nonresponsive" (ARM 2.5.602). The State may deem a proposal nonresponsive if: (1) any of the required information is not provided; (2) the submitted price is found to be excessive or inadequate as measured by the RFP criteria; or (3) the proposal does not meet RFP requirements and specifications. The State may find any proposal to be nonresponsive at any time during the procurement process. If the State deems a proposal nonresponsive, it will not be considered further.

2.4.2 Determination of Responsibility. The procurement officer will determine whether an offeror has met the standards of responsibility consistent with ARM 2.5.407. An offeror may be determined nonresponsible at any time during the procurement process if information surfaces that supports a nonresponsible determination. If an offeror is found nonresponsible, the procurement officer will notify the offeror by mail. The determination will be included within the procurement file.

2.4.3 Evaluation of Proposals. An evaluator/evaluation committee will evaluate all responsive proposals based on stated criteria and recommend an award to the highest scoring offeror. The evaluator/evaluation committee may initiate discussion, negotiation, or a best and final offer. In scoring against stated criteria, the evaluator/evaluation committee may consider such factors as accepted industry standards and a comparative evaluation of other proposals in terms of differing price and quality. These scores will be used to determine the most advantageous offering to the State. If an evaluation committee meets to deliberate and evaluate the proposals, the public may attend and observe the evaluation committee deliberations.

2.4.4 Completeness of Proposals. Selection and award will be based on the offeror's proposal and other items outlined in this RFP. Proposals may not include references to information such as Internet websites, unless specifically requested. Information or materials presented by offerors outside the formal response or subsequent discussion, negotiation, or best and final offer, if requested, will not be considered, will have no bearing on any award, and may result in the offeror being disqualified from further consideration.

2.4.5 Opportunity for Discussion/Negotiation and/or Oral Presentation. After receipt of proposals and prior to the recommendation of award, the procurement officer may initiate discussions with one or more offerors should clarification or negotiation be necessary. Offerors may also be required to make an oral presentation and/or product demonstration to clarify their RFP response or to further define their offer. In either case, offerors should be prepared to send qualified personnel to Helena, Montana, to discuss technical and contractual aspects of their proposal. Oral presentations and product demonstrations, if requested, shall be at the offeror's expense.

2.4.6 Best and Final Offer. Under Montana law, the procurement officer may request a best and final offer if additional information is required to make a final decision. The State reserves the right to request a best and final offer based on price/cost alone. Please note that the State rarely requests a best and final offer on cost alone.

2.4.7 Evaluator/Evaluation Committee Recommendation for Contract Award. The evaluator/evaluation committee will provide a written recommendation for contract award to the procurement officer that contains the scores, justification, and rationale for the decision. The procurement officer will review the recommendation to ensure its compliance with the RFP process and criteria before concurring with the evaluator's/evaluation committee's recommendation.

2.4.8 Request for Documents Notice. Upon concurrence with the evaluator's/evaluation committee's recommendation, the procurement officer will request from the highest scoring offeror the required documents and information, such as insurance documents, proof of entity, an electronic copy of any requested material (e.g., proposal, response to clarification questions, and/or best and final offer), and any other necessary documents. Receipt of this request does not constitute a contract and **no work may begin until a contract signed by all parties is in place.** The procurement officer will notify all other offerors of the State's selection.

2.4.9 Contract Execution. Upon receipt of all required materials, a contract (Appendix B) incorporating the Standard Terms and Conditions (Appendix A), as well as the highest scoring offeror's proposal, will be provided to the highest scoring offeror for signature. The highest scoring offeror will be expected to accept and agree to all material requirements contained in Appendices A and B of this RFP. If the highest scoring offeror does not accept all material requirements, the State may move to the next highest scoring offeror, or cancel the RFP. Work under the contract may begin when the contract is signed by all parties.

2.5 STATE'S RIGHTS RESERVED

While the State has every intention to award a contract resulting from this RFP, issuance of the RFP in no way constitutes a commitment by the State to award and execute a contract. Upon a determination such actions would be in its best interest, the State, in its sole discretion, reserves the right to:

- Cancel or terminate this RFP (18-4-307, MCA);
- Reject any or all proposals received in response to this RFP (ARM 2.5.602);
- Waive any undesirable, inconsequential, or inconsistent provisions of this RFP that would not have significant impact on any proposal (ARM 2.5.505);
- Not award a contract, if it is in the State's best interest not to proceed with contract execution (ARM 2.5.602); or
- If awarded, terminate any contract if the State determines adequate state funds are not available (18-4-313, MCA).

SECTION 3: SCOPE OF SERVICES

To enable the State to determine the capabilities of an offeror to perform the services specified in the RFP, the offeror shall respond to the following regarding its ability to meet the State's requirements.

All subsections of Section 3 not listed in the "Instructions to Offerors" on page 3 require a response. Restate the subsection number and the text immediately prior to your written response.

NOTE: Each item must be thoroughly addressed. Offerors taking exception to any requirements listed in this section may be found nonresponsive or be subject to point deductions.

3.1 BACKGROUND

Montana leads the nation with one of the highest rates of injury death and injury, with motor vehicle crashes as the chief mechanism of injury/death¹.

- Montana has one of the highest fatality rates in the nation for number of deaths caused by impaired drivers per vehicle mile traveled. On average each year, alcohol/drug-related driving has been a factor in **10 percent** of all traffic crashes, roughly **20 percent** of all injuries, and almost **50 percent** of deaths on Montana's roads.
- In 2011², 78.3% of the drivers/pedestrians/bicyclists (220 of 281) involved in fatal crashes were tested for blood alcohol concentration (BAC). Of those 220 tested, 33.2% had a BAC of greater than 0.00% (73 people) and the average BAC of these people was **0.188**, more than twice the limit at which impairment is presumed (0.08 BAC).
- Montana has one of the highest rates in the nation for per capita consumption of alcohol³.
- From 2008 to 2012, 14% of all fatal crashes involved motorcycles.
- Speed is a major factor in traffic crashes. From 2008 – 2012, speed was a factor in 17% of all crashes. Historically, there has been a clear correlation between alcohol and exceeding the speed limit for fatalities⁴.
- Youth and Indian Americans are over-represented in traffic crashes.

¹ <http://www.dphhs.mt.gov/ems/prevention/>

² Most recent data available

³ <http://pubs.niaaa.nih.gov/publications/surveillance97/CONS11.htm>

⁴ FFY 2013 MDT Problem Identification (www.mdt.mt.gov/publications/docs/brochures/safety/probid.pdf)

- Fatal crashes occur mostly on rural roads where there are higher speeds than in urban crashes. From 2008 to 2012, rural crashes made up 48% of all crashes, 88% of all fatal crashes, and 77% of all incapacitating injury crashes.⁵

A 2009 report by Dr. Tim Conley⁶ revealed that felony offenders, on average, conservatively estimate that they have driven 369 times per conviction. **Proper enforcement and effective prosecution are important deterrents to driving under the influence (DUI).**

When the National Highway Traffic Safety Administration (NHTSA) began researching ways to support prosecutors they found certain challenges common nationwide. First, there was poor communication between and among prosecutors, law enforcement, toxicologists and victims. A Traffic Safety Resource Prosecutor (TSRP) can help foster a team approach to the DUI problem. Second, DUI caseloads are often in the hands of the newest prosecutors with the least experience. Third, many defense attorneys specialize in DUI cases, and are very experienced and have access to tremendous resources. This places the inexperienced prosecutor at an immediate disadvantage.

Finally, DUI cases are some of the most challenging cases a prosecutor can take to trial. They involve scientific evidence and expert witnesses. Usually the officer is the only witness to the crime other than the defendant themselves, and the prosecutor often faces a sympathetic jury pool where many may have committed a DUI in the past and have not been caught.

Accomplishment of the deliverables will assist the state in achieving the following performance measures identified in the 2013 Montana Comprehensive Highway Safety Plan:

- Reduce the five-year average number of fatalities in crashes involving an alcohol-impaired driver or motorcycle operator (BAC 0.08 +) from 90 in 2010 to 70 by 2015.
- Reduce the five-year average number of fatalities and incapacitating injuries in crashes involving a driver or motorcycle operator with a BAC 0.01+ or evidence of alcohol and/or drugs from 484 in 2010 to 375 by 2015. .
- Reduce the fatality rate per 1000,000 Vehicles Miles Traveled (VMT) from 1.69 in 2010 to 1.01 by 2015.

3.2 PURPOSE

The TSRP will serve as an expert resource for state, county, municipal and tribal law enforcement, prosecutors and judges to promote the value of and consistency in the enforcement, prosecution and conviction of impaired drivers under the direction of MDT.

3.3 SCOPE OF WORK

3.3.1 Responsibilities. The TSRP will provide a variety of services including research, training and technical assistance as follows:

- Provide training across the state of Montana among Montana's prosecutors (including tribal prosecutors) and other traffic safety stakeholders with regards to impaired driving and traffic safety cases (e.g., traffic stops, presentation of breath and blood testing procedures, proof of impairment, evidence gathering issues, the statewide impact of particular cases, etc.). Provide training that aligns with the needs of Montana's Traffic Safety Resource Officer, Judicial Outreach Liaison, 24/7

⁵ FFY 2013 MDT Problem Identification(www.mdt.mt.gov/publications/docs/brochures/safety/probid.pdf)

⁶ "To Drink is to Drive" February 28, 2011, University of Montana School of Social Work (<http://www.mdt.mt.gov/safety/docs/ToDrinkisToDrive.pdf>)

Program Coordinator, Montana Department of Justice, Office of the Administrator, Montana County Attorney's Association, Montana League of Cities and Towns, Local DUI Task Forces, and other applicable organizations.

- Develop curriculum and provide training to prosecutors within the State of Montana (including tribal prosecutors) and participate in relevant organizations annual trainings/conferences regarding effective prosecution of impaired driving and other traffic-related offenses. Keep prosecutors informed as to cornerstone and new case law as well as statutory law and applicable legislative changes. Training may take the form of in-person, webinars, remote conferencing and other technology as appropriate.
- TSRP will seek, where applicable, continuing legal education (CLE) credits and POST credits for training sessions offered under this program.
- TSRP will outline proposed training; prioritize training based upon need, and assess the impact and costs/time associated with the training.
- Provide technical assistance to Montana's prosecutors regarding effective prosecution of impaired driving not exceed 30 hours per quarter unless prior approval is received from MDT.
- Research most current information that have a potential impact of the TSRP program. Research shall not exceed 30 hours per quarter unless prior approval is received from MDT.
- In order to provide the most current information during training, the TSRP will keep current on changes in relevant case law. The TSRP will also keep abreast of issues and developments in traffic safety legal specialty areas. The TSRP will maintain knowledge of the issues regarding traffic offenses on both a state and national level.
- The list of collaborating entities of the TSRP Program may include, but are not limited to:
 - Local law enforcement
 - Montana State Crime Lab
 - Montana county coroners
 - Montana Department of Justice
 - Montana Law Enforcement Academy
 - Montana Sheriffs & Peace Officers Association
 - Montana Association of Chiefs of Police
 - Montana County Attorneys' Association
 - Montana DUI Task Forces
 - Other community groups working to improve traffic safety
 - National Highway Traffic Safety Administration (NHTSA)
 - National Association of Prosecutor Coordinators (NAPC)
 - National Traffic Law Center (NTLC)
 - Office of Court Administrator – Montana Supreme Court
 - TSRPs in other states
 - Montana Department of Transportation personnel, including the assigned Program Planner at the State Highway Traffic Safety Office, the Law Enforcement Liaison, and MDT's Legal Services Unit.
- The TSRP may recommend revised protocols for high visibility law enforcement, and provide technical assistance for special efforts such as dedicated traffic patrols during local/state high-risk time frames, and national mobilizations. In particular, the TSRP will research problems with prosecuting and convicting impaired drivers (often associated with the presentation of breath and

blood testing procedures, proof of impairment and evidence gathering issues) and propose solutions.

- Supplies information to the Traffic Safety Planner to maintain web site for prosecutors with pertinent and current information regarding legal issues, relevant case law, and schedules of training, forms, standard documents, and useful links to other resources. MDT will house the web site domain and provide programmers to create the structure of the web page and input updates.
- Revise Montana's DUI Prosecutor's manual bi-annually post Legislative session to reflect change in law. This manual will include information on all relevant legal issues including, but not limited to, information regarding traffic stops, voire dire, presentation of breath and blood testing procedures and proof of impairment, sentencing recommendations, and case law. The manual will include useful forms.
- Provide technical assistance to MDT on legislative inquiries on a case by case basis.
- Work with an independent evaluator for purposes of evaluating the TSRP Program.
- Maintain and monitor TSRP budget and grant reporting requirements to ensure program compliance and continued funding. This includes ensuring compliance with federal, state, and agency laws, regulations and policies; monitoring performance measures, fulfilling reporting requirements outlined by MDT and developing/implementing corrective actions as necessary.
- Participate in state level activities, at the direction of MDT, such as Statewide DUI Task Force meetings, Comprehensive Highway Safety Plan meetings; and other relevant state level activities.
- TSRP will develop a work plan that includes objectives, action steps, expected short term and long term outcomes, data evaluation and measurements.

3.4 DELIVERABLES AND MILESTONES

3.4.1 Report Schedule. Progress in meeting and following deliverables and milestones will be documented in designated reporting periods and a final report submitted SHTSB each year. Reporting format will be provided to the contractor during contract negotiations.

Report Required	Due
First Reporting Period (covering activities in October, November and December)	January 30
Second Reporting Period (covering activities in January, February, March)	April 30
Third Reporting Period (covering activities in April, May, June)	July 30
(Fourth Final Report) (Covering activities in July, August, and September. Also provides a summary of activities through the project period)	October 30

3.4.2 Reports. Reports will describe specific activities in meeting the contract deliverables and goals, including, but not limited to the following:

- Participation in statewide activities and groups related to the prosecution of impaired driving.
- List of trainings planned for and conducted comprised of detailed information such as: number of attendees, type of attendees, cost associated per training and per attendee. This cost will

encompass all costs associated with the training. Training agenda and relevant training materials will also be provided. Evaluations will be made available upon request.

- Update on meeting benchmarks outlined in the work plan.
- Status of revised DUI Prosecutor's manual.
- Status of TSRP website.
- Detailed list of technical assistance provided.
- Types of research conducted and underlying purpose.

3.4.3 Action Items. Below is a table outlining the action items and due dates for this contract.

Action Item	Due Date
1. Adjust and Finalize work plan and submit for approval by MDT. Elements will include, but are not limited to: <ul style="list-style-type: none"> a. Inputs b. Processes c. Outputs d. short-term outcomes e. intermediate outcomes f. long-term outcomes g. evaluation 	<i>June 30, 2015.</i>
2. Finalize training plan for trainings to be completed by September 30, 2016	<i>June 30, 2015.</i>
3. Provide trainings among Montana's prosecutors (including tribal prosecutors) and other traffic safety stakeholders with regards to impaired driving and traffic safety cases.	<i>Based upon training plan</i>
4. Evaluate trainings and cost per training.	<i>At each training</i>
5. Actively participate in the development/implementation of Montana's <i>Comprehensive Highway Safety Plan</i> : <ul style="list-style-type: none"> a. Priority will be given to participation in CHSP meetings when setting training and travel schedules. b. Participate in the annual Comprehensive Highway Safety Plan meeting hosted by MDT. 	<i>Ongoing</i> <i>Annual meeting is scheduled for October of every year.</i>
6. Revise Montana's DUI Prosecutor's manual bi-annually after legislative session completion.	<i>By October 30, 2015</i>
7. Continue to work with MDT program planner in keeping the TSRP website updated.	<i>Ongoing</i>
8. Keep assigned MDT program planner informed regarding calendar commitments, including upcoming training sessions and meetings. Updates will be made as needed.	<i>As needed</i>
9. Provide one-on-one technical assistance to prosecutors across Montana.	<i>Ongoing</i>
10. Attend and participate in annual and any regional DUI Task Force meeting/s hosted by MDT.	<i>To be determined.</i>
11. Provide current and comprehensive impaired driving and other traffic safety materials for prosecutors and other criminal justice professionals to reference to enhance enforcement/prosecutions as needed. Work with MDT assigned program planner and MDT print shop to develop and print	<i>Ongoing/as needed</i>

flyers, brochures, training, and informational PowerPoint presentations and other training materials as needed. All materials bearing the MDT logo or MDT department name will be submitted for MDT review and approval.	
12. Conduct additional relevant trainings on request based on budget and availability.	<i>To be determined.</i>
13. Track performance outcomes identified in work plan.	<i>Ongoing.</i>
14. Participate in independent evaluation process.	<i>To be determined.</i>
15. Other tasks requested by SHTSS.	<i>As requested and available</i>

Reporting will address any problems encountered in implementing the TSRP program as agreed upon. The project director will maintain regular communication with SHTSS's assigned program planner for this contract. The program planner is a resource for helping solve any problems encountered with the contract.

All reports must be signed and submitted in hard copy to the assigned program planner with an electronic copy.

3.5 METHOD OF PROVIDING SERVICES

Offeror shall provide a work plan that will convincingly demonstrate to the State what the Offeror intends to do, the timeframes necessary to accomplish the work, and how the work will be accomplished to meet the contract requirements as more specifically detailed above in Section 3.3 and 3.4. Offeror must specifically address each of the following requirements as defined in this RFP.

3.5.1 Process for Developing the Deliverables. Outline the process you/your firm would use for the development of the responsibilities and deliverables detailed in Sections 3.3 and 3.4 that meets the deadline schedule outlined by the State. In this outline, include information about the proposed process for the research, facilitation, development, and production of the deliverables. From this outline the evaluation committee will gain insight into the Offeror's thought process and working style. The outline is not expected to be a final process.

3.5.2 Understanding of the Montana Department of Transportation's Traffic Safety Resource Prosecutor Program. Describe your/your firm's understanding of the TSRP Program and the process, procedures, and resources you would utilize to increase this understanding in order to develop and produce deliverables (reports, presentations, charts, educational information, etc.) that are useful and relevant to the program.

3.5.3 Design and Present Trainings. Offeror must describe his/her ability to successfully establish new training and present trainings on various topics pertaining to effective prosecution of impaired driving offenses.

3.5.4 Research, Presentation Planning, and Tracking Results. Describe what you/your firm would recommend as the most effective, useful, and manageable mechanism for research, presentation planning, and tracking the results for the TSRP program (for example: increased successful prosecutions in a particular high fatality area). From this recommendation the evaluation committee will gain insight into the Offeror's knowledge of how effective prosecution can reduce traffic fatalities in Montana. The recommendation is not expected to be a final process.

3.5.5 Your Turn. The State understands that a good working relationship with the contractor is vital to the success of this project. The State's Highway Traffic Safety Office will be relying on the expertise and skills of the successful Offeror to help them develop a useful, meaningful, and effective Highway Safety Strategy. What would you like the State to know about you/your firm that would provide a better understanding of the assets, skills, and expertise you would bring to this project?

SECTION 4: OFFEROR QUALIFICATIONS

All subsections of Section 4 not listed in the "Instructions to Offerors" on page 3 require a response. Restate the subsection number and the text immediately prior to your written response.

4.1 STATE'S RIGHT TO INVESTIGATE AND REJECT

The State may make such investigations as deemed necessary to determine the offeror's ability to perform the services specified. The State reserves the right to reject a proposal if the information submitted by, or investigation of, the offeror fails to satisfy the State's determination that the offeror is properly qualified to perform the obligations of the contract. *This includes the State's ability to reject the proposal based on negative references.*

4.2 OFFEROR QUALIFICATIONS

To enable the State to determine the capabilities of an offeror to perform the services specified in the RFP, the offeror shall respond to the following regarding its ability to meet the State's requirements. **THE RESPONSE, "(OFFEROR'S NAME) UNDERSTANDS AND WILL COMPLY," IS NOT APPROPRIATE FOR THIS SECTION.**

NOTE: Each item must be thoroughly addressed. Offerors taking exception to any requirements listed in this section may be found nonresponsive or be subject to point deductions.

4.2.1 Client Reference Form. Offeror shall provide complete and separate **Appendix C**, Client Reference Form, for **three (3)** references that are currently using or have previously used services of the type proposed in this RFP, preferably within the last **ten (10)** years. A responsible party of the organization for which the services were provided to the client (the offeror's customer) must provide the reference information and must sign and date the form. It is the offeror's responsibility to ensure that the completed forms are submitted with the Offeror's proposal by the submission date, for inclusion in the evaluation process. Any Client Reference Forms that are not received or are not completed may adversely affect the offeror's score in the evaluation process. Client Reference Forms exceeding the specified number will not be considered. The State may contact the client references for validation of the information provided in the Client Reference Forms. If the State finds erroneous information, evaluation points may be deducted or the proposal may be rejected.

4.2.2 Mandatory Minimum Qualifications. Offeror must meet ALL the following mandatory minimum qualifications. Offerors failing to meet these qualifications will be deemed non-responsive. Offerors shall describe in detail their experience in the following areas:

- The key TSRP position must have a Juris Doctorate or equivalent degree from a law school accredited by the American Bar Association or the Supreme Court of the State of Montana.
- The TSRP position requires extensive experience in the prosecution of impaired driving cases with a minimum of three years of experience (some of which may have been acquired in law school) including litigation of traffic-safety related cases and courtroom experience, experience giving presentations to large groups and preferably experience participating as an active member in meetings or discussions of issues with community-wide interest (e.g., DUI Task Force, drug interdiction, traffic safety or related meetings).
- The ability to travel and a valid driver's license.

4.2.2 Company Profile and Experience. Offeror shall provide documentation establishing the individual or company submitting the proposal has the qualifications and experience to perform the services specified in this RFP, including, at a minimum:

- a detailed description of any similar past projects, including the service type and dates the services were provided;
- the client for whom the services were provided; and
- a general description of the firm including its primary source of business, organizational structure and size, number of employees, years of experience performing services similar to those described within this RFP.

4.2.3 Resumes. Offeror shall provide a resume or summary of qualifications, work experience, education, and skills for all key personnel, including any subcontractors, who will be performing any aspect(s) of the contract. Include years of experience providing services similar to those required; education; and certifications where applicable. Identify what role each person would fulfill in performing work identified in this RFP.

4.2.4 Writing Samples. The successful Offeror must demonstrate they have the ability to write concrete analyses of impaired driving prosecution cases and other transportation information as it pertains to Highway Safety or Montana in a format that is complete, accurate, and readable by person without formal training in the area. Therefore, all Offerors must prepare and submit with this proposal **one** relevant writing sample demonstrating these skills. Each writing sample should be longer than one type written page but no longer than 10 pages.

4.2.5 Training Experience. Experience in conducting training sessions for small and large groups is required, with demonstrated knowledge of adult education and training methods and techniques, ability to hold an audience's attention and skill in effectively communicating training material to the audience. Offeror shall provide a list of training sessions/presentations you/your firm has conducted, including dates, locations, subject matter (need not be relevant to TSRP position), and approximate number of attendees in the audience.

4.2.6 Oral Presentation. Offerors must be prepared to have the key personnel assigned to this project complete an oral presentation in Helena, Montana. The State reserves the right to have presentations from the top 5 highest scoring Offeror's after evaluation of Phase 1.

Offerors shall be given a topic of discussion from the State one week in advance of their oral presentation. Offerors will be required to give a 15 minute presentation on this topic in front of the evaluation committee and any other member of the public present at the meeting (offerors will not be allowed to exceed this 15 minute time limit). It is at the Offeror's discretion on how to conduct their presentation. Offerors in need of a laptop, projector, smart board, internet connection, etc., must give the State 72 hours' notice of their needs so the State can attempt to fulfill their request.

SECTION 5: COST PROPOSAL

All subsections of Section 5 not listed in the "Instructions to Offerors" on page 3 require a response. Restate the subsection number and the text immediately prior to your written response.

5.1 BUDGET LIMITATIONS AND OTHER COST REQUIREMENTS

The maximum amount of funds available for this project is **\$150,000** for the initial contract period (April 1, 2015 through September 30, 2016). Subsequent renewal periods will be limited to **\$100,000**, annually.

The TSRP is expected to provide and maintain their own office, including phone, cell phone, personal computer with high-speed Internet service and Microsoft Office software (Word, Excel, PowerPoint, and Publisher), laptop with wireless connection, fax or scanner, supplies and materials. The rates submitted by the Offeror in Section 5.3 must be inclusive of all overhead expenses as well as any fringe benefits.

The State will reimburse the TSRP for the actual cost of reproducing training materials. The State will reimburse the TSRP for travel lodging and per diem costs at the applicable state rate for in-state travel, and federal rate for approved out-of-state travel.

The billable rates to the State may not exceed 0.25 of an hour increments for actual billable time.

5.2 BASIS OF EVALUATION

Cost will be evaluated in accordance with the formula set forth in Section 6.2 for each of the sub-sections of Section 5.3. The points available for each cost section are outlined in Section 6.1.

In addition, each Offeror must complete and submit the Budget Worksheet (**Appendix D**) with their proposal. The Budget Worksheet should include the rates submitted in Section 5.3 and the hours that tie back to the Offeror's proposed work plan submitted in Section 3.5 to provide an overall project budget. The Budget Worksheet will be used by the evaluation committee to ensure the Offeror's work plan does not exceed the maximum ceiling for this project. **Any responses exceeding the budget ceiling in Section 5.1 may be disqualified.** The Budget Worksheet will not be scored under the evaluation criteria. The cost will be scored based on the rates provided in Section 5.3.

5.3 RATES

5.3.1 REPORTS

Offerors shall provide their cost for submitting one (1) quarterly report to be provided to the State as outlined in Sections 3.3 and 3.4 of this RFP. This should be the total cost of compiling and submitting the report, NOT an hourly rate.

Total Report Rate\$_____

5.3.2 TRAINING

Offerors shall provide an hourly rate for providing training throughout Montana. This rate will be utilized for any required preparation, actual time training, and for any post-training requirements, as approved by the State.

Hourly Training Rate\$_____

5.3.3 TECHNICAL ASSISTANCE

Offerors shall provide an hourly rate for providing technical assistance services throughout Montana.

Hourly Technical Assistance Rate \$ _____

5.3.4 RESEARCH

Offerors shall provide an hourly rate for providing applicable research.

Hourly Research Rate \$ _____

5.3.5 STATEWIDE ACTIVITIES

Offerors shall provide an hourly rate for participating in statewide activities throughout Montana as outlined in 3.3 and 3.4.

Hourly Statewide Activities Rate \$ _____

5.3.6 WEBSITE

Offerors shall provide an hourly rate for providing assistance to the MDT Program Planner in maintaining a TSRP website as outlined in 3.3 and 3.4.

Hourly Website Assistance Rate \$ _____

5.3.7 PROSECUTOR'S MANUAL

Offerors shall provide total costs in updating the Prosecuting the DUI Manual on a bi-annual basis following completion of legislative sessions as outlined in 3.3 and 3.4. This should be the total cost, NOT an hourly rate.

Total Prosecutor's Manual Update Cost \$ _____

5.3.8 TRAVEL

Offerors shall provide an hourly rate for travel time in providing all deliverables outlined in section 3.3 and 3.4.

Hourly Travel Rate \$ _____

5.3 COST REVISIONS

If at any time during the project, anticipated expenditures change, revised estimated expenditures for each federal fiscal year for the duration of the project must be provided. The revised estimate will be reviewed by the State to determine if the request will be approved.

SECTION 6: EVALUATION PROCESS

6.1 BASIS OF EVALUATION

The evaluator/evaluation committee will review and evaluate the offers according to the following criteria based on **a total number of 1947 points and an additional 150 points for an Oral Presentation, at the State's option.**

SCORING GUIDE

In awarding points to the evaluation criteria, the evaluator/evaluation committee will consider the following guidelines:

Superior Response (95-100%): A superior response is an exceptional reply that completely and comprehensively meets all of the requirements of the RFP. In addition, the response may cover areas not originally addressed within the RFP and/or include additional information and recommendations that would prove both valuable and beneficial to the agency.

Good Response (75-94%): A good response clearly meets all the requirements of the RFP and demonstrates in an unambiguous and concise manner a thorough knowledge and understanding of the project, with no deficiencies noted.

Fair Response (60-74%): A fair response minimally meets most requirements set forth in the RFP. The offeror demonstrates some ability to comply with guidelines and requirements of the project, but knowledge of the subject matter is limited.

Failed Response (59% or less): A failed response does not meet the requirements set forth in the RFP. The offeror has not demonstrated sufficient knowledge of the subject matter.

Scope of Services	1250 points possible
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Category	Section of RFP	Point Value
A. Process for Developing Deliverables	3.5.1	300
B. Understanding of The MDT's Traffic Safety Resource Prosecutor Program	3.5.2	150
C. Design and Present Trainings	3.5.3	300
D. Research, Presentation Planning and Tracking Results	3.5.4	300
E. Your Turn	3.5.5	200

Offeror Qualifications	372 points possible
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Category	Section of RFP	Point Value
A. References	4.2.1	72

B.	Mandatory Minimum Qualifications	4.2.2.	Pass/Fail
	<ul style="list-style-type: none"> • Juris Doctorate or equivalent degree from a law school accredited by the American Bar Association or Montana Supreme Court. • Three years of experience in the prosecution of impaired driving cases including litigation of traffic-safety related cases and courtroom experience. • Valid Montana driver's license 		
C.	Company Profile & Experience	4.2.2	50
D.	Resumes	4.2.3	50
E.	Writing Sample	4.2.4	100
F.	Training Experience	4.2.5	100

Cost Proposal	325 points possible
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Category	Section of RFP	Point Value
A. Reports	5.3.1	25
B. Training	5.3.2	50
C. Technical Assistance	5.3.3	50
D. Research	5.3.4	25
E. Statewide Activities	5.3.5	50
F. Website	5.3.6	25
G. Prosecutor Manual	5.3.7	50
H. Travel	5.3.8	50

6.2 EVALUATION CRITERIA

Lowest overall cost per category receives the maximum allotted points. All other proposals receive a percentage of the points available based on their cost relationship to the lowest. Example: Total possible points for cost are 200. Offeror A's cost is \$20,000. Offeror B's cost is \$30,000. Offeror A would receive 200 points. Offeror B would receive 134 points ($(\$20,000/\$30,000) = 67\% \times 200 \text{ points} = 134$).

Lowest Responsive Offer Total Cost x Number of available points = Award Points
This Offeror's Total Cost

6.3 EVALUATION CRITERIA PHASE 2

An oral presentation may be requested for top five (5) offerors, or for any offeror where the State determines it is in the best interest of the State to conduct such a presentation.

Offerors will be required to give a 15 minute presentation as described in Section 4.2.6, and will be asked questions by the evaluation committee.

During the presentation, offerors will be expected to specifically demonstrate the topic discussion given by the State and will be evaluated on their public speaking ability, organization skills, clarity, and persuasiveness. The State will use the scoring guide established in Section 6.1 for evaluation.

Category	Section of RFP	Point Value
Oral Presentation		150
Oral Presentation	4.2.6	150

APPENDIX A: STANDARD TERMS AND CONDITIONS

Standard Terms and Conditions

By submitting a response to this invitation for bid, request for proposal, limited solicitation, or acceptance of a contract, the vendor agrees to acceptance of the following Standard Terms and Conditions and any other provisions that are specific to this solicitation or contract.

ACCEPTANCE/REJECTION OF BIDS OR PROPOSALS: The Department reserves the right to accept or reject any or all bids or proposals, wholly or in part and to make awards in any manner deemed in the best interest of the Department. Bids and proposals will be firm for 30 days, unless stated otherwise in the text of the invitation for bid or request for proposal.

ALTERATION OF SOLICITATION DOCUMENT: In the event of inconsistencies or contradictions between language contained in the Department's solicitation document and a Contractor's response, the language contained in the Department's original solicitation document will prevail. Intentional manipulation and/or alteration of solicitation document language will result in the Contractor's disqualification and possible debarment.

FACSIMILE RESPONSES: Facsimile bids sent directly to the Department of Transportation will not be accepted; however, facsimile bids sent to a 3rd party and then delivered to the Department in a properly addressed, sealed envelope will be accepted.

FAILURE TO HONOR BID/PROPOSAL: If a bidder/Contractor to whom a contract is awarded refuses to accept the award (PO/contract) or, fails to deliver in accordance with the contract terms and conditions, the Department may, in its discretion, suspend the bidder/Contractor for a period of time from entering into any contracts with the State of Montana.

LATE BIDS AND PROPOSALS: Regardless of cause, late bids and proposals will not be accepted and will automatically be disqualified from further consideration. It shall be solely the Contractor's risk to assure delivery at the designated office by the designated time. Late bids and proposals will not be opened and may be returned to the Contractor at the expense of the Contractor or destroyed if requested.

SOLICITATION DOCUMENT EXAMINATION: Contractors shall promptly notify the Department of any ambiguity, inconsistency or error, which they may discover upon examination of a solicitation document.

WARRANTIES: The Contractor warrants that items offered will conform to the specifications requested, to be fit and sufficient for the purpose manufactured, of good material and workmanship and free from defect. Items offered must be new and unused and of the latest model or manufacture, unless otherwise specified by the State. They shall be equal in quality and performance to those indicated herein. Descriptions used herein are specified solely for the purpose of indicating standards of quality, performance and/or use desired. Exceptions will be rejected.

APPENDIX B: CONTRACT

TRAFFIC SAFETY RESOURCE PROSECUTOR #311520

THIS CONTRACT is entered into by and between the State of Montana, Department of Transportation, (State), whose address and phone number are 2701 Prospect Ave, Helena, MT 59602, (406) and (insert name of contractor), (Contractor), whose address and phone number are (insert address) and (insert phone number). Funds provided are described in the Catalog of Federal Domestic Assistance (CFDA), number 20.602 awarded by the National Highway Traffic Safety Administration, Department of Transportation as authorized by 23 U.S.C. 402 et seq. **Actual award is contingent upon the availability of NHTSA funding.**

1. EFFECTIVE DATE, DURATION, AND RENEWAL

1.1 Contract Term. The contract's initial term is upon contract execution through September 30, 2016, unless terminated earlier as provided in this contract. In no event is this contract binding on the State unless the State's authorized representative has signed it. The legal counsel signature approving legal content of the contract and the procurement officer signature approving the form of the contract do not constitute an authorized signature.

1.2 Contract Renewal. The State may renew this contract under its then-existing terms and conditions (subject to potential cost adjustments described below in section 2) in 1-year intervals, or any interval that is advantageous to the State. This contract, including any renewals, may not exceed a total of 7 years.

2. COST ADJUSTMENTS

2.1 Cost Adjustments Negotiated Based on Changes in Contractor's Costs. *After the contract's initial term and if the State agrees to a renewal*, the parties may negotiate cost adjustments at the time of contract renewal. Any cost increases must be based on demonstrated industrywide or regional increases in Contractor's costs. The State is not obligated to agree upon a renewal or a cost increase.

3. SERVICES

Contractor shall provide to the State a Traffic Safety Resource Prosecutor (TSRP). The TSRP provides resources, technical assistance and a network of contacts for prosecutors, law enforcement and judges to promote the value of and consistency in the enforcement, prosecution and conviction of impaired drivers.

4. CONSIDERATION/PAYMENT

4.1 Payment Schedule. In consideration of the services to be provided, the State shall pay Contractor according to the following schedule: Contractor shall advise the State in writing of project progress at such times and in such manner as the State may require, but not more than monthly or less than on a quarterly basis. Requests for reimbursement shall be submitted with the progress reports.

4.2 Withholding of Payment. In addition to its other remedies under this contract, at law, or in equity, the State may withhold payments to Contractor if Contractor has breached this contract. Such withholding may not be greater than, in the aggregate, **15%** of the total value of the subject statement of work or applicable contract.

4.3 Payment Terms. Unless otherwise noted in the solicitation document, the State has 30 days to pay invoices, as allowed by 17-8-242, MCA. Contractor shall provide banking information at the time of contract execution in order to facilitate the State's electronic funds transfer payments.

4.4 Reference to Contract. The contract number MUST appear on all invoices, packing lists, packages, and correspondence pertaining to the contract. If the number is not provided, the State is not obligated to pay the invoice.

5. ACCESS AND RETENTION OF RECORDS

5.1 Access to Records. Contractor shall provide the State, Legislative Auditor, or their authorized agents access to any records necessary to determine contract compliance. The State may terminate this contract under section 23, without incurring liability, for the Contractor's refusal to allow access as required by this section. (18-1-118, MCA.)

5.2 Retention Period. Contractor shall create and retain all records supporting the non-intrusive traffic data collection system for a period of eight years after either the completion date of this contract or termination of the contract.

6. ASSIGNMENT, TRANSFER, AND SUBCONTRACTING

Contractor may not assign, transfer, or subcontract any portion of this contract without the State's prior written consent. (18-4-141, MCA.) Contractor is responsible to the State for the acts and omissions of all subcontractors or agents and of persons directly or indirectly employed by such subcontractors, and for the acts and omissions of persons employed directly by Contractor. No contractual relationships exist between any subcontractor and the State under this contract.

7. HOLD HARMLESS/INDEMNIFICATION

Contractor agrees to protect, defend, and save the State, its elected and appointed officials, agents, and employees, while acting within the scope of their duties as such, harmless from and against all claims, demands, causes of action of any kind or character, including the cost of defense thereof, arising in favor of Contractor's employees or third parties on account of bodily or personal injuries, death, or damage to property arising out of services performed or omissions of services or in any way resulting from the acts or omissions of Contractor and/or its agents, employees, representatives, assigns, subcontractors, except the sole negligence of the State, under this contract.

8. REQUIRED INSURANCE

8.1 General Requirements. Contractor shall maintain for the duration of this contract, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the work by Contractor, agents, employees, representatives, assigns, or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission.

8.2 Primary Insurance. Contractor's insurance coverage shall be primary insurance with respect to the State, its officers, officials, employees, and volunteers and shall apply separately to each project or location. Any insurance or self-insurance maintained by the State, its officers, officials, employees, or volunteers shall be excess of Contractor's insurance and shall not contribute with it.

8.3 Specific Requirements for Commercial General Liability. Contractor shall purchase and maintain occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of \$1,000,000 per occurrence and \$2,000,000 aggregate per year to cover such claims as may be

caused by any act, omission, or negligence of Contractor or its officers, agents, representatives, assigns, or subcontractors.

The State, its officers, officials, employees, and volunteers are to be covered and listed as additional insureds for liability arising out of activities performed by or on behalf of Contractor, including the insured's general supervision of Contractor, products, and completed operations, and the premises owned, leased, occupied, or used.

8.4 Specific Requirements for Automobile Liability. Contractor shall purchase and maintain coverage with split limits of \$500,000 per person (personal injury), \$1,000,000 per accident occurrence (personal injury), and \$100,000 per accident occurrence (property damage), OR combined single limits of \$1,000,000 per occurrence to cover such claims as may be caused by any act, omission, or negligence of Contractor or its officers, agents, representatives, assigns, or subcontractors.

The State, its officers, officials, employees, and volunteers are to be covered and listed as additional insureds for automobiles leased, owned, or borrowed by Contractor.

8.5 Specific Requirements for Professional Liability. Contractor shall purchase and maintain occurrence coverage with combined single limits for each wrongful act of **\$1,000,000** per occurrence and **\$2,000,000** aggregate per year to cover such claims as may be caused by any act, omission, negligence of Contractor or its officers, agents, representatives, assigns, or subcontractors. Note: If "occurrence" coverage is unavailable or cost prohibitive, Contractor may provide "claims made" coverage provided the following conditions are met: (1) the commencement date of this contract must not fall outside the effective date of insurance coverage and it will be the retroactive date for insurance coverage in future years; and (2) the claims made policy must have a three-year tail for claims that are made (filed) after the cancellation or expiration date of the policy.

8.6 Deductibles and Self-Insured Retentions. Any deductible or self-insured retention must be declared to and approved by the State. At the request of the State either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the State, its officers, officials, employees, or volunteers; or (2) at the expense of Contractor, Contractor shall procure a bond guaranteeing payment of losses and related investigations, claims administration, and defense expenses.

8.7 Certificate of Insurance/Endorsements. A certificate of insurance from an insurer with a Best's rating of no less than A- indicating compliance with the required coverages, has been received by the Purchasing Services Section, PO Box 201001, Helena, MT 59620-1001. Contractor must notify the State immediately of any material change in insurance coverage, such as changes in limits, coverages, change in status of policy, etc. The State reserves the right to require complete copies of insurance policies at all times.

9. COMPLIANCE WITH WORKERS' COMPENSATION ACT

Contractor shall comply with the provisions of the Montana Workers' Compensation Act while performing work for the State of Montana in accordance with 39-71-401, 39-71-405, and 39-71-417, MCA. Proof of compliance must be in the form of workers' compensation insurance, an independent contractor's exemption, or documentation of corporate officer status. Neither Contractor nor its employees are State employees. This insurance/exemption must be valid for the entire contract term and any renewal. Upon expiration, a renewal document must be sent to the Purchasing Services Section, PO Box 201001, Helena, MT 59620-1001.

10. COMPLIANCE WITH LAWS

Contractor shall, in performance of work under this contract, fully comply with all applicable federal, state, or local laws, rules, and regulations, including but not limited to, the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Any subletting or subcontracting by Contractor subjects subcontractors to the

same provision. In accordance with 49-3-207, MCA, Contractor agrees that the hiring of persons to perform this contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing this contract.

11. SEAT BELT POLICY

All Contractors are required to adopt a seatbelt use policy that applies to all employees during work hours, whether traveling in a work vehicle or a personal vehicle, in compliance with state law. A copy of the policy will be provided to your assigned program manager.

12. FEDERAL REQUIREMENTS

The Grantee understands that this agreement includes requirements specifically prescribed by Federal law or regulation. The Grantee acknowledges they have read, understood and agree to comply with all Highway Safety Grant (23 U.S.C, Chapter 4) requirements including applicable federal statutes and regulations that are in effect during the grant period.

12.1 Nondiscrimination. Grantee will comply with all Federal statutes and implementing regulations relating to nondiscrimination. These include but are not limited to:

- (a) Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), which prohibits discrimination on the basis of race, color or national origin (and 49 CFR Part 21);
- (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683 and 1685-1686), which prohibits discrimination on the basis of sex;
- (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and the Americans with Disabilities Act of 1990 (Pub. L. 101-336), as amended (42 U.S.C. 12101, et seq.), which prohibits discrimination on the basis of disabilities (and 49 CFR Part 27);
- (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107), which prohibits discrimination on the basis of age;
- (e) the Civil Rights Restoration Act of 1987 (Pub. L. 100-259), which requires Federal-aid recipients and all subrecipients to prevent discrimination and ensure nondiscrimination in all of their programs and activities;
- (f) the Drug Abuse Office and Treatment Act of 1972 (Pub. L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse;
- (g) the comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (Pub. L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
- (h) Sections 523 and 527 of the Public Health Service Act of 1912, as amended (42 U.S.C. 290dd-3 and 290ee-3), relating to confidentiality of alcohol and drug abuse patient records;
- (i) Title VIII of the Civil Rights Act of 1968, as amended (42 U.S.C. 3601, et seq.), relating to nondiscrimination in the sale, rental or financing of housing;
- j) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and
- (k) the requirements of any other nondiscrimination statute(s) which may apply to the application.

12.2 Buy America Act. The Grantee will comply with the provisions of the Buy America Act (49 U.S.C. 5323(j)), which contains the following requirements:

Only steel, iron and manufactured products produced in the United States may be purchased with Federal funds unless the Secretary of Transportation determines that such domestic purchases would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. Clear justification for the purchase of non-domestic items must be in the form of a waiver request submitted to and approved by the Secretary of Transportation.

12.3 Political Activity (Hatch Act). The Grantee will comply with the provisions of the Hatch Act (5 U.S.C. 1501-1508) which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

12.4 Certification Regarding Federal Lobbying. Certification for Contracts, Grants, Loans, and Cooperative Agreements. The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-award at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

12.5 Restriction on State Lobbying. None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

12.6 Certification Regarding Debarment and Suspension. Instruction for Primary Certification:

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and coverage sections of 49 CFR Part 29. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the list of Parties Excluded from Federal Procurement and Non-procurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters-Primary Covered Transactions

- (1) The prospective primary participant certifies to the best of its knowledge and belief, that its principals:
- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;
 - (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of record, making false statements, or receiving stolen property;
 - (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the Statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Lower Tier Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definition and Coverage sections of 49 CFR Part 29. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-- Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions. (See below)
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment. Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

13. MDT NONDISCRIMINATION AND DISABILITY ACCOMODATION NOTICE

Montana Department of Transportation (“MDT”) is committed to conducting all of its business in an environment free of discrimination, harassment, and retaliation. In accordance with State and Federal law MDT prohibits any and all discrimination on the grounds of race, color, national origin, sex, age, physical or mental disability, parental/marital status, pregnancy, religion/creed/culture, political belief, genetic material, veteran status, or social origin/ancestry (hereafter “protected classes”). by its employees or anyone with whom MDT chooses to do business.

For the duration of this contract/agreement, the PARTY agrees as follows:

- (1) Compliance with Regulations:** The PARTY (hereinafter includes consultant) will comply with all Acts and Regulations of the United States and the State of Montana relative to Non-Discrimination in Federally and State-assisted programs of the U.S. Department of Transportation and the State of Montana, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
- (2) Non-discrimination:**
 - a. The PARTY, with regard to the work performed by it during the contract, will not discriminate, directly or indirectly, on the grounds of any of the protected classes in the selection and retention of subcontractors, including procurements of materials and leases of equipment, employment, and all other activities being performed under this contract/agreement.
 - b. PARTY will provide notice to its employees and the members of the public that it serves that will include the following:
 - i. Statement that PARTY does not discriminate of the grounds of any protected classes.
 - ii. Statement that PARTY will provide employees and members of the public that it serves with reasonable accommodations for any known disability, upon request, pursuant to the Americans with Disabilities Act as Amended (ADA).
 - iii. Contact information for PARTY’s representative tasked with handling non-discrimination complaints and providing reasonable accommodations under the ADA.
 - iv. Information on how to request information in alternative accessible formats.
 - c. In accordance with Mont. Code Ann. § 49-3-207, PARTY will include a provision, in all of its hiring/subcontracting notices, that all hiring/subcontracting will be on the basis of merit and qualifications and that PARTY does not discriminate on the grounds of any protected class.

(3) Participation by Disadvantaged Business Enterprises (DBEs):

- a. If the PARTY receives federal financial assistance as part of this contract/agreement, the PARTY will make all reasonable efforts to utilize DBE firms certified by MDT for its subcontracting services. The list of all currently certified DBE firms is located on the MDT website at mdt.mt.gov/business/contracting/civil/dbe.shtml
- b. By signing this agreement the PARTY assures that:
The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.
- c. PARTY must include the above assurance in each contract/agreement the PARTY enters.

(4) Solicitation for Subcontracts, Including Procurement of Materials and Equipment: In all solicitations, either by competitive bidding, or negotiation, made by the PARTY for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the PARTY of the PARTY's obligation under this contract/agreement and all Acts and Regulations of the United States and the State of Montana related to Non-Discrimination.

(5) Information and Reports: The PARTY will provide all information and reports required by the Acts, Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information and its facilities as may be determined by MDT or relevant US DOT Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the PARTY will so certify to MDT or relevant US DOT Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

(6) Sanctions for Noncompliance: In the event of a PARTY's noncompliance with the Non-discrimination provisions of this contract/agreement, MDT will impose such sanctions as it or the relevant US DOT Administration may determine to be appropriate, including, but not limited to:

- a. Withholding payments to the PARTY under the contract/agreement until the PARTY complies; and/or
- b. Cancelling, terminating, or suspending the contract/agreement, in whole or in part.

(7) Pertinent Non-Discrimination Authorities:

During the performance of this contract/agreement, the PARTY, for itself, its assignees, and successor in interest, agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Federal

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 200d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airways Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);

- The Civil Rights Restoration Act of 1987, (PL 100-209), (broadened the scope, coverage, and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients, and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Non-Discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which prevents discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English Proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. § 1681 *et seq.*).

State

- Mont. Code Ann. § 49-3-205 Governmental services;
- Mont. Code Ann. § 49-3-206 Distribution of governmental funds;
- Mont. Code Ann. § 49-3-207 Nondiscrimination provision in all public contracts.

(8) Incorporation of Provisions: The PARTY will include the provisions of paragraph one through seven in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The PARTY will take action with respect to any subcontract or procurement as MDT or the relevant US DOT Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the PARTY becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the PARTY may request MDT to enter into any litigation to protect the interests of MDT. In addition, the PARTY may request the United States to enter into the litigation to protect the interests of the United States.

14. DISABILITY ACCOMMODATIONS

The State does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services, or activities. Individuals who need aids, alternative document formats, or services for effective communications or other disability related accommodations in the programs and services offered are invited to make their needs and preferences known to this office. Interested parties should provide as much advance notice as possible.

15. TECHNOLOGY ACCESS FOR BLIND OR VISUALLY IMPAIRED

Contractor acknowledges that no state funds may be expended for the purchase of information technology equipment and software for use by employees, program participants, or members of the public unless it provides blind or visually impaired individuals with access, including interactive use of the equipment and services, that is equivalent to that provided to individuals who are not blind or visually impaired. (18-5-603, MCA.) Contact the State Procurement Bureau at (406) 444-2575 for more information concerning nonvisual access standards.

16. REGISTRATION WITH THE SECRETARY OF STATE

Any business intending to transact business in Montana must register with the Secretary of State. Businesses that are incorporated in another state or country, but which are conducting activity in Montana, must determine whether they are transacting business in Montana in accordance with 35-1-1026 and 35-8-1001, MCA. Such businesses may want to obtain the guidance of their attorney or accountant to determine whether their activity is considered transacting business.

Within 10 business days of receiving the Request for Documents Notice, if businesses determine that they are transacting business in Montana, they must register with the Secretary of State and obtain a certificate of authority to demonstrate that they are in good standing in Montana. To obtain registration materials, call the Office of the Secretary of State at (406) 444-3665, or visit their website at <http://sos.mt.gov>

In the sole discretion of Montana Department of Transportation, this contract may be voided for violation of these requirements. The Certificate of Authority must be sent to the Purchasing Services Section, PO Box 201001, Helena, MT 59602-1001. This section does not apply to a natural person, conducting business in his/her full, true and correct name, (Mont. Code Ann. § 30-13-201(1)).

17. CONTRACT TERMINATION

17.1 Termination for Convenience. This contract may be terminated at any time based upon mutual written consent of the parties. If it is considered to be in the best interests of the Department, the Department may terminate this Agreement upon giving ten (10) working days written notice to the grantee. If the agreement is so terminated prior to fulfillment of the terms stated herein, the Contractor shall be reimbursed only for actual expenses, incurred to the date of termination.

17.2 Reduction of Funding. The State must by law terminate this contract if funds are not appropriated or otherwise made available to support the State's continuation of performance of this contract in a subsequent fiscal period. (18-4-313(4), MCA.) If state or federal government funds are not appropriated or otherwise made available through the state budgeting process to support continued performance of this contract (whether at an initial contract payment level or any contract increases to that initial level) in subsequent fiscal periods, the State shall terminate this contract as required by law. The State shall provide Contractor the date the State's termination shall take effect. The State shall not be liable to Contractor for any payment that would have been payable had the contract not been terminated under this provision.

As stated above, the State shall be liable to Contractor only for the payment, or prorated portion of that payment, owed to Contractor up to the date the State's termination takes effect. This is Contractor's sole remedy. The State shall not be liable to Contractor for any other payments or damages arising from termination under this section, including but not limited to general, special, or consequential damages such as lost profits or revenues.

18. EVENT OF BREACH – REMEDIES

18.1 Event of Breach by Contractor. Any one or more of the following Contractor acts or omissions constitute an event of material breach under this contract:

- products or services furnished fail to conform to any requirement;
- failure to submit any report required by this contract;
- failure to perform any of the other terms and conditions of this contract, including but not limited to beginning work under this contract without prior State; or
- voluntary or involuntary bankruptcy or receivership.

18.2 Event of Breach by State. The State's failure to perform any material terms or conditions of this contract constitutes an event of breach.

18.3 Actions in Event of Breach.

Upon Contractor's material breach, the State may:

- terminate this contract under Section 18.1 and pursue any of its remedies under this contract, at law, or in equity; or
- treat this contract as materially breached and pursue any of its remedies under this contract, at law, or in equity.

Upon the State's material breach, Contractor may:

- terminate this contract under Section 18.2 and pursue any of its remedies under this contract, at law, or in equity; or
- treat this contract as materially breached and, except as the remedy is limited in this contract, pursue any of its remedies under this contract, at law, or in equity.

19. FORCE MAJEURE

Neither party is responsible for failure to fulfill its obligations due to causes beyond its reasonable control, including without limitation, acts or omissions of government or military authority, acts of God, materials shortages, transportation delays, fires, floods, labor disturbances, riots, wars, terrorist acts, or any other causes, directly or indirectly beyond the reasonable control of the nonperforming party, so long as such party uses its best efforts to remedy such failure or delays. A party affected by a force majeure condition shall provide written notice to the other party within a reasonable time of the onset of the condition. In no event, however, shall the notice be provided later than five working days after the onset. If the notice is not provided within the five day period, then a party may not claim a force majeure event. A force majeure condition suspends a party's obligations under this contract, unless the parties mutually agree that the obligation is excused because of the condition.

20. WAIVER OF BREACH

Either party's failure to enforce any contract provisions after any event of breach is not a waiver of its right to enforce the provisions and exercise appropriate remedies if the breach occurs again. Neither party may assert the defense of waiver in these situations.

21. CONFORMANCE WITH CONTRACT

No alteration of the terms, conditions, delivery, price, quality, quantities, or specifications of the contract shall be granted without the State Procurement Bureau's prior written consent. Product or services provided that do not conform to the contract terms, conditions, and specifications may be rejected and returned at Contractor's expense.

22. LIAISONS AND SERVICE OF NOTICES

22.1 Contract Liaisons. All project management and coordination on the State's behalf must be through a single point of contact designated as the State's liaison. Contractor shall designate a liaison that will provide the single point of contact for management and coordination of Contractor's work. All work performed under this contract must be coordinated between the State's liaison and Contractor's liaison.

_____ is the State's liaison.

(Address):

(City, State, ZIP):

Telephone:

Cell Phone:

Fax:

E-mail:

_____ is Contractor's liaison.

(Address):

(City, State, ZIP):

Telephone:

Cell Phone:

Fax:

E-mail:

22.2 Notifications. The State's liaison and Contractor's liaison may be changed by written notice to the other party. Written notices, requests, or complaints must first be directed to the liaison. Notice may be provided by personal service, mail, or facsimile. If notice is provided by personal service or facsimile, the notice is effective upon receipt; if notice is provided by mail, the notice is effective within three business days of mailing. A signed and dated acknowledgement of the notice is required of both parties.

22.3 Identification/Substitution of Personnel. The personnel identified or described in Contractor's proposal shall perform the services provided for the State under this contract. Contractor agrees that any personnel substituted during the term of this contract must be able to conduct the required work to industry standards and be equally or better qualified than the personnel originally assigned. The State reserves the right to approve Contractor personnel assigned to work under this contract and any changes or substitutions to such personnel. The State's approval of a substitution will not be unreasonably withheld. This approval or disapproval shall not relieve Contractor to perform and be responsible for its obligations under this contract. The State reserves the right to require Contractor personnel replacement. If Contractor personnel become unavailable, Contractor shall provide an equally qualified replacement in time to avoid delays to the work plan.

23. MEETINGS

23.1 Technical or Contractual Problems. Contractor shall meet with the State's personnel, or designated representatives, to resolve technical or contractual problems occurring during the contract term or to discuss the progress made by Contractor and the State in the performance of their respective obligations, at no additional cost to the State. The State may request the meetings as problems arise and will be coordinated by the State. The State shall provide Contractor a minimum of three full working days' notice of meeting date, time, and location. Face-to-face meetings are desired; however, at Contractor's option and expense, a conference call meeting may be substituted. Contractor's consistent failure to participate in problem resolution meetings, Contractor missing or rescheduling two consecutive meetings, or Contractor's failure to make a good faith effort to resolve problems may result in termination of the contract.

25.2 Progress Meetings. During the term of this contract, the State's Project Planner shall plan and schedule progress meetings with Contractor to discuss Contractor's and the State's progress in the performance of their respective obligations. These progress meetings will include the State Project Planner, the Contractor Project Manager, and any other additional personnel involved in the performance of this contract as required. At each meeting, Contractor shall provide the State with a written status report that identifies any problem or circumstance encountered by Contractor, or of which Contractor gained knowledge during the period since the last such status report, which may prevent Contractor from completing any of its obligations or may generate charges in excess of those previously agreed to by the parties. This may include the failure or inadequacy of the State to perform its obligation under this contract. Contractor shall identify the amount of excess charges, if any, and the cause of any identified problem or circumstance and the steps taken to remedy the same.

26. TRANSITION ASSISTANCE

If this contract is not renewed at the end of this term, if the contract is otherwise terminated before project completion, or if particular work on a project is terminated for any reason, Contractor shall provide transition assistance for a reasonable, mutually agreed period of time after the expiration or termination of this contract or particular work under this contract. The purpose of this assistance is to allow for the expired or terminated portion of the services to continue without interruption or adverse effect, and to facilitate the orderly transfer of such services to the State or its designees. The parties agree that such transition assistance is governed by the terms and conditions of this contract, except for those terms or conditions that do not reasonably apply to such transition assistance. The State shall pay Contractor for any resources utilized in performing such transition assistance at the most current contract rates. If the State terminates a project or this contract for cause, then the State may offset the cost of paying Contractor for the additional resources Contractor utilized in providing transition assistance with any damages the State may have sustained as a result of Contractor's breach.

27. CHOICE OF LAW AND VENUE

Montana law governs this contract. The parties agree that any litigation concerning this bid, proposal, or this contract must be brought in the First Judicial District in and for the County of Lewis and Clark, State of Montana, and each party shall pay its own costs and attorney fees.

28. TAX EXEMPTION

The State of Montana is exempt from Federal Excise Taxes (#81-0302402).

29. AUTHORITY

This contract is issued under authority of Title 18, Montana Code Annotated, and the Administrative Rules of Montana, Title 2, chapter 5.

30. SEVERABILITY CLAUSE

A declaration by any court or any other binding legal source that any provision of the contract is illegal and void shall not affect the legality and enforceability of any other provision of the contract, unless the provisions are mutually and materially dependent.

31. SCOPE, ENTIRE AGREEMENT, AND AMENDMENT

31.1 Contract. This contract consists of _____ numbered pages, any Attachments as required, Solicitation #HWY-311520-SH as amended, and Contractor's response, as amended. In the case of dispute or ambiguity arising between or among the documents, the order of precedence of document interpretation is the same.

31.2 Entire Agreement. These documents are the entire agreement of the parties. They supersede all prior agreements, representations, and understandings. Any amendment or modification must be in a written agreement signed by the parties.

32. WAIVER

The State's waiver of any Contractor obligation or responsibility in a specific situation is not a waiver in a future similar situation or is not a waiver of any other Contractor obligation or responsibility.

33. EXECUTION

The parties through their authorized agents have executed this contract on the dates set out below.

**STATE OF MONTANA
DEPT OF TRANSPORTATION
2701 PROSPECT AVENUE
HELENA MT 59602**

**(INSERT CONTRACTOR'S NAME)
(Insert Address)
(Insert City, State, Zip)
FEDERAL ID #**

BY: _____
(Name/Title)

BY: _____
(Name/Title)

BY: _____
(Signature)

BY: _____
(Signature)

DATE: _____

DATE: _____

BY: _____
(Name/Title)

BY: _____
(Signature)

DATE: _____

Approved as to Legal Content:

Approved as to Form:

Legal Counsel

Procurement Officer

Approved as to Civil Rights Language

Civil Rights Bureau

The Montana Department of Transportation attempts to provide reasonable accommodations for any known disability that may interfere with a person participating in any service, program or activity of the Department. Alternative accessible formats of this document will be provided upon request. For more information or to arrange special accommodations for disabilities, please call Scott Hicks at (406) 444-6033 Voice or 1-800-335-7592 TTY or (406) 444-7696 TTY.

APPENDIX C: CLIENT REFERENCE FORM

The individual completing this Reference Form must be a responsible party of the organization for which the services were provided. This individual should have comprehensive knowledge about the services provided.

Your response will be used as part of the Offeror's. A maximum of 72 points are available based on your ratings.

<h2 style="text-align: center;">Reference Form</h2>		<p style="text-align: center;">0-4</p> <p>Please rank each of these items on a scale of 0 to 4, where:</p> <div style="border: 1px solid black; padding: 5px;"> <p>4: Agree Strongly</p> <p>3: Agree</p> <p>2: Neutral</p> <p>1: Disagree</p> <p>0: Failed</p> </div>
<p>Company Name (Offeror): _____</p>		
<p>Reference's Name: _____</p>		
<p>Description of your relationship to the offeror and applicability in this subject area:</p>		
<p>1. How would you rate the offeror's communication skills?</p>		
<p>2. How would you rate the offeror's ability to work with various public and private organizations?</p>		
<p>3. How would you rate the offeror's reliability, honesty and integrity?</p>		
<p>4. Overall, how would you rate the Offeror's on-site training and ability to provide technical assistance on a variety of subject areas related to impaired driving?</p>		
<p>5. Overall, the Offeror's technical knowledge of relevant subject matter.</p>		
<p>6. Overall, you are very satisfied with the Offeror's ability to provide services relevant to this subject matter.</p>		
<p>NAME: _____ DATE: _____</p> <p style="text-align: center;">(Signature)</p>		
<p>TITLE: _____</p>		
<p>EMAIL ADDRESS: _____</p>		
<p>PHONE NUMBER: _____</p>		

APPENDIX D BUDGET WORKSHEET

	April 1 st – June 30 th 2015	July 1 st – Sept. 30 th 2015	Oct. 1 – Dec. 30 th 2015	January 1 st – March 1 st 2016	April 1 st – June 30 th 2016	July 1 st – Sept. 30 th 2016	Total Funding Requested
Direct Labor (break down by hours and rate)							
Example: \$40 per hour	25 hours @ 40/hour = 1,000	40 hours @ 40/hour = 1,600					2,600
Reports (Flat cost)							
Training							
Technical Assistance							
Research							
Statewide Activities							
Website							
Prosecutor's Manual							
Travel Time							
Other: Please specify							
Total Labor							
Operating Costs							
Supplies/Materials							
Equipment							
Total Operating Costs (supplies, materials, equipment)							
Travel Expenses							
Mileage/Airfare							
Meals							
Motels							
Total Travel Expense							
Contracted Services							
List each Contractor and Amount (if applicable)							
Total Contracted Services							
Total Funding Requested of entire project	Total for timeframe	Total for timeframe	Total for timeframe	Total for timeframe	Total for timeframe	Total for timeframe	Project Total